

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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G&G CLOSED CIRCUIT EVENTS, LLC,

Plaintiff,

-against-

AYAZ HUSSAIN, individually and d/b/a
HOOKAH ON THE BAY; and GHAZI NY INC.,
an unknown business entity d/b/a
HOOKAH ON THE BAY,

Defendants.

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MATSUMOTO, United States District Judge:

Plaintiff G&G Closed Circuit Events, LLC ("Plaintiff" or "G&G") initiated the instant action against Ghazi NY Inc., an unknown business entity doing business as Hookah on the Bay ("Defendant" or "Ghazi NY Inc."), and Ayaz Hussain ("Hussain"), on September 11, 2020.¹ (ECF No. 1, Compl.) Plaintiff alleges that Defendant, in violation of the Federal Communications Act of 1934 ("FCA"), 47 U.S.C. §§ 553 and 605, unlawfully intercepted and displayed a boxing match held on September 16, 2017, between Saul Alvarez and Gennady Golovkin. (See ECF No. 1, Compl.) The Clerk of the Court entered Defendant's default on April 27, 2021. (ECF No. 16.) Plaintiff now moves for default judgment and seeks

¹ On March 30, 2021, Plaintiff voluntarily dismissed its claims against Ayaz Hussain ("Hussain"). (ECF No. 13.) Plaintiff moves for default only as to the remaining Defendant, Ghazi NY Inc.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

20-cv-4280 (KAM) (JRC)

statutory damages. (See ECF No. 17, Mot. for Default J.; ECF No. 17-1, Mem. in Supp.) On August 24, 2021, the Court referred Plaintiff's motion for default judgment to Magistrate Judge James R. Cho for a Report and Recommendation ("R&R"). (Dkt. Order Referring Motion, Aug. 24, 2021.) On October 13, 2021, Magistrate Judge Cho issued an R&R, which recommended that Plaintiff be awarded judgment against Defendant, and that the District Court enter default judgment against defendant Ghazi NY Inc., in the total amount of \$10,000, comprised of \$2,500 in statutory damages and \$7,500 in enhanced damages. (ECF No. 18.) For the reasons discussed below, the Court adopts in part and modifies in part the R&R.

BACKGROUND AND DISCUSSION²

The summons issued to Ghazi NY Inc., was issued on September 15, 2020, and Ghazi NY Inc., was served on November 20, 2020. (ECF Nos. 4-5.) On April 22, 2021, after Defendant Ghazi NY Inc. failed to appear, respond, or otherwise defend the instant action, Plaintiff filed a request for a certificate of default, and included a certificate of service confirming Defendant was served with the request for a certificate of default. (ECF No.

² The Court incorporates by reference the factual background provided in the R&R. (ECF No. 18, R&R, pp. 2-3.)

14, Request for Certificate of Default; ECF No. 14-3, Certificate of Service.) On April 27, 2021, the Clerk of Court filed an entry of default against Ghazi NY Inc. pursuant to Federal Rule of Civil Procedure 55(a). (ECF No. 16, Clerk's Entry of Default.) On May 4, 2021, Plaintiff filed a motion for default judgment and supporting exhibits, including a certificate of service confirming that Defendant had been served with the motion for default judgment and supporting exhibits. (See ECF Nos. 17, 17-1-6.)

As noted *supra*, on August 24, 2021, the Court referred Plaintiff's motion for default judgment to Magistrate Judge Cho for an R&R. (Dkt. Order Referring Motion, Aug. 24, 2021.) On October 13, 2021, Magistrate Judge Cho issued an R&R, which recommended that Plaintiff be awarded judgment against Defendant, and that the Court enter default judgment against defendant Ghazi NY Inc. in the total amount of \$10,000, comprised of \$2,500 in statutory damages and \$7,500 in enhanced damages. (ECF No. 18.)

The R&R was served on Defendant by regular and overnight mail on October 14, 2021. (ECF No. 19, Affidavit of Service for R&R.) The R&R notified the parties of their right to file written objections by October 27, 2021, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). (ECF No. 18, R&R.) Neither party filed any objections to the R&R by the October 27,

2021, deadline, and the statutory period for filing objections has expired. To date, Defendant has not answered or otherwise responded to the Complaint.

In reviewing a Report and Recommendation, the district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Where “no or merely perfunctory objections” to a Report and Recommendation have been filed, the district court reviews for clear error. *Caires v. JP Morgan Chase Bank N.A.*, No. 16-cv-2694, 2017 WL 384696, at *1 (S.D.N.Y. January 27, 2017). The district court is permitted “to adopt those sections of a magistrate judge’s report to which no specific objection is made, so long as those sections are not facially erroneous.” *S.E.C. v. Nadel*, No. 11-cv-215, 2016 WL 4718188, at *2 (E.D.N.Y. September 9, 2016) (citations omitted).

CONCLUSION

Upon review of the thorough and well-reasoned Report and Recommendation, and considering that the parties have failed to file any objections to Judge Cho’s recommendations, the Court finds no clear error in the R&R. The Court declines to adopt the R&R only to the extent that the R&R recommends that Plaintiff be awarded \$7,500 in enhanced damages, representing an amount three

times the statutory award. The Court will instead award enhanced damages of only two times the statutory award, in the amount of \$5,000, consistent with the past practices of this Court and in recognition of the fact that the Defendant is not a repeat offender. The Court hereby adopts in part and modifies in part the R&R.

Accordingly, Plaintiff's motion for default judgment is GRANTED, and judgment shall be entered against Defendant against defendant Ghazi NY Inc. in the total amount of \$7,500, comprised of \$2,500 in statutory damages and \$5,000 in enhanced damages. (ECF No. 18.) Plaintiff shall file a motion for interest, attorney's fees and costs, if any, within thirty (30) days of the filing of this Memorandum and Order. Plaintiff is ordered to serve a copy of this Memorandum and Order on Defendant and note service on the docket. The Clerk of Court is respectfully requested to enter judgment in favor of Plaintiff in the amount of \$7,500, and close this case.

SO ORDERED.

Dated: December 27, 2021
Brooklyn, New York

/s/
Kiyo A. Matsumoto
United States District Judge